

REMARKS

The claims as amended above to not represent new matter. The concept of the twine cutter being discardable due primarily to a worn out blade now in claims 8 and 9 as amended is presented on page 4, lines 16-18.

The Examiner rejects claims 1, 7-8 under 35 U.S.C. 102(b) as being clearly anticipated by Mansfield, U.S. Patent 5,127,162.

The rejection is traversed by the foregoing amendments and the following discussion.

Mansfield discloses a game cutting tool composed of a housing of durable and reliable material designed with a piercing boss plate and a cutting blade with a hand holder (abstract, column 2, line 29). Conversely the subject invention is an inexpensive twine cutter composed of injection molded plastic sized for easy fitting into a coat pocket surrounding a hand holder and a blade positioned by a strut, thus allowing discarding when said blade wears out (claims 1, 7, 8 as amended). Mansfield has a game cutting tool useful for cutting into game ready for butchering and requiring a piercing boss plate to control the skin after cutting. Conversely the subject invention has no connection to game cutting or cutting of sheets like skin and relates to twine cutting where twine is defined by rope-like material, such as nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18). Further Mansfield uses a piercing boss plate for skin control whereas the subject invention only employs a strut also composed of injection molded plastic to maneuver said twine for successful cutting. Additionally Mansfield expects his game cutting tool to be long lasting by using durable and reliable material; conversely the subject invention is designed to be inexpensive enough to be discardable when the blade becomes unusable. Finally Mansfield is silent about the overall size of his game cutting tool and only states that it is hand held (abstract, column 1, lines 41-42); conversely the subject invention is sized to fit into a coat pocket (claim 7 as amended, column 4, lines 1-7).

Thus with these many major differences Mansfield does not anticipate the subject invention.

The Examiner rejects claims 1,3 under 35 U.S.C. 102(b) as being clearly anticipated by Florian et al., U.S. Patent Des. 254,243, hereafter Florian.

The rejection is traversed by the foregoing amendments and the following discussion.

Florian discloses by a design patent several drawings of an apparent hand held article with rounded construction titled "cutter for sheet material or the like." Being a design patent Florian gives no information concerning the usefulness of the cutter (cover page). Conversely the subject invention being a utility patent gives much such information (pages 1-4, claim 1 as

amended, claim 3 has been canceled). Perhaps the best example of this difference is the utility patent field of chemical patents that requires not only the identification of a chemical compound by its chemical drawing nomenclature, but also requires a description of its usefulness before a patent can be issued; a drawing of pictorial concept of the chemical formula is not sufficient. Florian states a cutter for sheet material. Conversely the subject invention is a twine cutter where twine is defined by rope-like material of nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18), and rope and sheet are not identical materials. Additionally Florian expects his cutter to be long lasting with an apparent replaceable blade since in his Figure 1 is shown two screws allowing opening up of the frame for the blade change. Conversely the subject invention is designed as non-openable, inexpensive twin cutter made with injection molding to be discardable or able to be thrown away when the blade suffers sufficient wear.

Thus with these many major differences Florian does not anticipate the subject invention.

The Examiner rejects claims 2 and 6 under 35 U.S.C. 103(a) as being unpatentable over Mansfield, U.S. Patent 5,127,162.

The rejection is traversed by the foregoing amendments and the following discussion.

Claims 2 and 6 have been canceled; therefore, this rejection is traversed.

In general, under the long standing Graham case about obviousness, *Graham v. John Deere Co.*, 148 USPQ 459 (Sup.Ct. 1963), there are potentially four major aspects to the subject invention being nonobvious under 35 U.S.C. 103(a). The more modern case *Rutz v. A.B. Chance Co.*, 57 U.S.P.Q.2d 1161 (Fed.Cir. 2000) reiterated these common Graham findings giving the four factual inquiries or aspects in order to find obviousness: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) secondary considerations of nonobviousness. These will be selectively discussed as the Examiners rejections under this section are completed.

The Examiner rejects claims 9-11 under 35 U.S.C. 103(a) as being unpatentable over Mansfield, U.S. Patent 5,127,162, in view of Florian, et al., U.S. Patent Des. 254,243, hereafter Florian.

The rejection is traversed by the foregoing amendments and the following discussion.

Mansfield discloses a game cutting tool composed of a housing of durable and reliable material designed with a piercing boss plate with several potential cutting mechanisms along with a hand holder (abstract, column 2, line 29, column 3, lines 25-26, line 39, lines 63-64). Florian discloses by a design patent several drawings of an apparent hand held article with rounded construction titled "cutter for sheet material or the like." Conversely the subject invention is an

inexpensive twine cutter composed of injection molded plastic sized for easy fitting into a coat pocket surrounding a hand holder and a blade positioned by a strut, thus allowing discarding when said blade wears out (claims 9 and 11, as amended, claim 10 is canceled).

Mansfield has a game cutting tool useful for cutting into game ready for butchering and requiring a piercing boss plate to control the skin after cutting. Conversely the subject invention has no connection to game cutting or cutting of sheets like skin and relates to twine cutting where twine is defined by rope-like material, such as nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18). Further Mansfield uses a piercing boss plate for skin control whereas the subject invention only employs a strut also composed of injection molded plastic to maneuver said twine for successful cutting. Additionally Mansfield expects his game cutting tool to be long lasting by using durable and reliable material; conversely the subject invention is designed to be inexpensive enough to be discardable when the blade becomes unusable.

As to Florian, being a design patent Florian gives no information concerning the usefulness of the cutter (cover page). Conversely the subject invention being a utility patent gives much such information (pages 1-4, claim 9 and 11, as amended, claim 10 is canceled). Perhaps the best example of this difference is the utility patent field of chemical patents that requires not only the identification of a chemical compound by its chemical drawing nomenclature, but also requires a description of its usefulness before a patent can be issued; a drawing of pictorial concept of the chemical formula is not sufficient. Florian states a cutter for sheet material. Conversely the subject invention is a twine cutter where twine is defined by rope-like material of nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18), and rope and sheet are not identical materials. Additionally Florian expects his cutter to be long lasting with an apparent replaceable blade since in his Figure 1 is shown two screws allowing opening up of the frame for the blade change. Conversely the subject invention is designed as non-openable, inexpensive twine cutter made with injection molding to be discardable or able to be thrown away when the blade suffers sufficient wear. Further the handle of Florian is rounded in comparison to Mansfield because of its limited design orientation. Conversely the subject invention has a slightly rounded look, Figure 1, because of utility requirements in making a very usable twine cutter that will not be a scratching hazard to users hands, and this also includes a rounded, wavy finger-fitting hand hold for better and safer handling that is not shown in Mansfield and Florian.

Thus Mansfield in view of Florian does not meet the needed obvious requirement of aspect (1): the scope and content of the prior art and aspect (3): the differences between the claimed invention and the prior art; and so the subject invention is not obvious.

Additionally it is important to recognize as discussed as above not only aspect (1): the scope and content of the prior art and aspect (3): the differences between the claimed invention and the prior art, but also aspect (2): the level of ordinary skill in the prior art. The important question becomes “what is the field of the prior art, and thus what is the level of ordinary skill?” In particular this applies to Mansfield where his apparent field is cutting of game skin that represents the cutting of a sheet material, and because cutting of skin of an animal carcass primarily involves hunters of game that butcher such a dead animal catch out in the field, (abstract, column 1, lines 6-21). Conversely the subject invention involves the field of twine cutting where twine is a rope-like material, not a sheet material, and this rope removal primarily involves farmers or ranchers cutting of twine surrounding hay bales being normally fed to live penned-in animals, (abstract, page 1, lines 5-15). Thus what is “the level of ordinary skill” in the art of carcass cutting by hunters is not the same as “the level of ordinary skill” in the art of hay bales twine cutting by farmers or ranchers. In our modern society the concept of “cutting” is involved in a myriad of activities and they represent a wide variety of “levels of ordinary skill.” Additionally the subject invention occurred because it was needed for work with hay bales, and the required cutting “level of ordinary skill” was significantly different than that of hunters when employing field cutting of carcasses

Thus Mansfield does not meet the obvious requirement of aspect (3): the level of ordinary skill in the prior art, since the two ordinary skills of Mansfield and the subject invention are not patently related; therefore the subject invention is not obvious.

Additionally it is important to recognize as discussed above not only aspect (1): the scope and content of the prior art; aspect (2): the level of ordinary skill in the prior art; and aspect (3): the differences between the claimed invention and the prior art; but also aspect (4): secondary considerations of nonobviousness. Now the important question becomes that if the subject invention was obvious because of Mansfield in view of Florian, “why was this not utilized in production and sale of such an item in the large time occurring, at least 11 years, between Mansfield’s patent issuing in 1992 and Florian’s design patent in 1980, when compared with the current invention that was filed in 2003?” Additionally the subject invention occurred because it was needed for work with hay bales, and nothing like it was available within society’s current markets.

Thus Mansfield in view of Florian does not meet the obvious requirement of aspect (4): secondary considerations of nonobviousness, since an excessive time period of 11 years has

occurred between the subject invention and the identified prior art; therefore the subject invention is not obvious.

In conclusion the many important non-verifications on the Graham requirements using Mansfield in view of Florian make the subject invention nonobvious.

The Examiner rejects claims 4-5 under 35 U.S.C. 103(a) as being unpatentable over Mansfield, U.S. Patent 5,127,162, in view of Bigler et al., U.S. Patent 3,748,742, hereafter Bigler.

The rejection is traversed by the foregoing amendments and the following discussion.

Mansfield discloses a game cutting tool composed of a housing of durable and reliable material designed with a piercing boss plate with several potential cutting mechanisms along with a hand holder (abstract, column 2, line 29, column 3, lines 25-26, line 39, lines 63-64). Bigler discloses cutlery tool with a large replaceable blade for removing entrails from animals and fish with a hand holder having a plurality of ribs (abstract, Figure 3, column 1, lines 5-7, column 2, lines 58-62, lines 8-9, column 4, lines 37-39). Conversely the subject invention is an inexpensive twine cutter composed of injection molded plastic sized for easy fitting into a coat pocket surrounding a hand holder and a blade positioned by a strut, thus allowing discarding when said blade wears out (claims 4-5, as amended).

Mansfield has a game cutting tool useful for cutting into game ready for butchering and requiring a piercing boss plate to control the skin after cutting. Conversely the subject invention has no connection to game cutting or cutting of sheets like skin and relates to twine cutting where twine is defined by rope-like material, such as nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18). Further Mansfield uses a piercing boss plate for skin control whereas the subject invention only employs a strut also composed of injection molded plastic to maneuver said twine for successful cutting. Additionally Mansfield expects his game cutting tool to be long lasting by using durable and reliable material; conversely the subject invention is designed to be inexpensive enough to be discardable when the blade becomes unusable.

As to Bigler, he discloses cutlery tool with a large replaceable blade for removing entrails from animals and fish with a hand holder having a plurality of ribs (abstract, Figure 3, column 1, lines 5-7, column 2, lines 58-62, lines 8-9, column 4, lines 37-39). Conversely the subject invention has no connection with animal disemboweling and relates to twine cutting with a non-replaceable small blade making the twine cutter discardable, and where twine is defined by rope-like material, such as nylon, plastic, sisal, cotton, or hemp (abstract, page 1, lines 17-18). Bigler has a plurality of ribs along its fixed sized hand holder that represent a hard to employ and potentially unsafe condition with bare hands; further, the ribs are inconsistent since his Figures 1

and 3 show small ribs and Figure 4 shows large ribs with no further explanation. Conversely the subject invention has a smooth, wavy, finger-fitting hand holder that also allows for different size openings to fit small, medium and large sized hands even when wearing gloves (claim 5 as amended, Figure 3, page 4, lines 1-7). Consequently the purpose of said ribs by Bigler is inconsistent and "teaches away" from the finger-fitting smooth, wavy hand holder of the subject invention designed especially for small, median and large sized hands.


Mansfield has a game cutting tool useful for cutting into game ready for butchering and requiring a piercing boss plate to control the skin after cutting. Conversely the subject invention has no connection to game cutting or skin cutting and relates to twine cutting where twine is defined by rope-like material, such as nylon, plastic, sisal, cotton, or hemp (page 1, lines 17-18). Further Mansfield uses a piercing boss plate for skin control whereas the subject invention only employs a strut also composed of injection molded plastic to maneuver said twine for successful cutting. Additionally Mansfield expects his game cutting tool to be long lasting by using durable and reliable material; conversely the subject invention is designed to be inexpensive enough to be discardable when the blade becomes unusable.

Further Mansfield with a patent date of 1992 in view of Bigler with a patent date of 1973 does not meet the obvious requirement of aspect (4): secondary considerations of nonobviousness, as explained above since an excessive time period of 11 years has occurred between the subject invention of 2003 and the identified prior art, therefore the subject invention is not obvious.

In conclusion the many important non-verifications on the Graham requirements, as explained previously, using Mansfield in view of Bigler make the subject invention nonobvious.

In view of the above remarks, each of the active claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Respectfully submitted,


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